

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DIONTAE D. DAVIS,

Plaintiff,

v.

CIVIL ACTION NO. 5:24-cv-00368

WARDEN HOLZAPFEL,

Defendant.

ORDER

Pending are Plaintiff's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 [ECF 1], filed July 22, 2024, and Defendant's Motion to Dismiss [ECF 11], filed October 22, 2024. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R [ECF 14] on January 3, 2025. Magistrate Judge Aboulhosn recommended that the Court grant Defendant's Motion to Dismiss and remove this matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made*." (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's


findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on January 21, 2025. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 14], **GRANTS** Defendant's Motion to Dismiss [ECF 11], **DISMISSES** the Petition [ECF 1], and **DISMISSES** the matter.

The Court **DIRECTS** the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: January 24, 2025




Frank W. Volk
Chief United States District Judge